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## ARTICLE VIII

### CIVIL SERVICE

#### Section 115: Civil Service Commission

This Commission shall have supervision over the selection, promotion and removal of all employees of the City subject to the Civil Service provisions of this Charter.

*(Amendment voted 11-06-1956; effective 01-10-1957.)*

*(Amendment voted 11-04-1969; effective 01-29-1970.)*

*(This language formerly in Section 41. Language formerly in this section moved to Section 41.)*

#### Section 116: Personnel Director

The Civil Service Commission shall appoint a Personnel Director who shall serve as Secretary of the Commission. He shall act as Chief Examiner and superintend the examinations, subject to the direction of the Commission. He shall perform such other duties as are prescribed by this Charter, by ordinance, or by the Commission.

#### Section 117: Unclassified and Classified Services

Employment in the City shall be divided into the Unclassified and Classified Service.

(a) The Unclassified Service shall include:

- (1) All elective City Officers
- (2) Members of all boards and commissions
- (3) All department heads and one principal assistant or deputy in each department
- (4) One assistant to Mayor
- (5) City Manager, Assistant City Manager, and Assistants to the City Manager
- (6) City Clerk
- (7) Budget Officer

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- (8) Purchasing Officer
  - (9) Treasurer
  - (10) All Assistant and Deputy City Attorneys
  - (11) Industrial Coordinator
  - (12) The Planning Director
  - (13) A Confidential Secretary to the Mayor, City Council, City Manager, Police Chief, City Attorney
  - (14) Officers and employees of San Diego Unified School District
  - (15) Persons employed in positions for expert professional temporary service when such positions are exempted from the Classified Service for a specified period of temporary service by order of the Civil Service Commission
  - (16) Interns including, but not limited to, Administrative Interns and legal Interns, temporarily employed in regularly established training programs as defined in the job specifications of the City
  - (17) Managerial employees having significant responsibilities for formulating or administering departmental policies and programs. Each such position shall be exempted from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and the approval of the City Council.
- (b) The Classified Service shall include all positions not specifically included by this section in the Unclassified Service; provided, however, that the incumbents in the positions of the Planning Director and the Principal Assistant to the Planning Director on January 1, 1963 shall remain in the Classified Service until the respective positions are vacated by the incumbents.
  - (c) The City may employ any independent contractor when the City Manager determines, subject to City Council approval, City services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest. The City Council shall by ordinance provide for appropriate policies and procedures to implement this subsection. Such ordinance shall include minimum contract standards and other measures to protect the

quality and reliability of public services. A City department shall be provided with an opportunity and resources to develop efficiency and effectiveness improvements in their operations as part of the department's proposal. The City Manager shall establish the Managed Competition Independent Review Board to advise the City Manager whether a City department's proposal or an independent contractor's proposal will provide the services to the City most economically and efficiently while maintaining service quality and protecting the public interest. The City Manager will appoint seven (7) members to the Board. Four (4) shall be private citizens whose appointments shall be subject to City Council confirmation. Each shall have professional experience in one or more of the following areas: finance, law, public administration, business management or the service areas under consideration by the City Manager. Three (3) shall be City staff including a City Manager staff designee, a City Council staff designee and the City Auditor and Comptroller or staff designee. Such appointees shall not have any personal or financial interests which would create conflict of interests with the duties of a Board member. Members of the Board shall be prohibited from entering into a contract or accepting employment from an organization which secures a City contract through the managed competition process for the duration of the contract. The City Council shall have the authority to accept or reject in its entirety any proposed agreement with an independent contractor submitted by the City Manager upon recommendation of the Managed Competition Independent Review Board. The City Manager shall have the sole responsibility for administering and monitoring any agreements with contractors. The City Manager shall be required to produce annual performance audits for contracted services, the cost of which must be accounted for and considered during the bidding process. In addition, the City Manager shall seek an independent audit every five (5) years to evaluate the City's experience and performance audits. During the period of time that the City operates under the Strong Mayor form of governance pursuant to Article XV, the reference herein to City Manager shall be deemed to refer to the Mayor.

*(Amendment voted 03-13-1945; effective 04-09-1945.)*

*(Amendment voted 03-11-1947; effective 03-24-1947.)*

*(Amendment voted 04-17-1951; effective 05-03-1951.)*

*(Amendment voted 04-21-1953; effective 05-29-1953.)*

*(Amendment voted 06-08-1954; effective 01-10-1955.)*

*(Amendment voted 11-06-1956; effective 01-10-1957.)*

*(Amendment voted 04-16-1957; effective 05-15-1957.)*

*(Amendment voted 04-21-1959; effective 05-20-1959.)*

*(Amendment voted 06-07-1960; effective 01-09-1961.)*

*(Amendment voted 09-17-1963; effective 02-11-1964.)*

*(Amendment voted 11-06-1979; effective 12-17-1979.)*

*(Amendment voted 11-07-2006; effective 12-13-2006.)*

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**Section 118: Rules**

The Civil Service Commission shall recommend to the City Council all rules and amendments thereto for the government, supervision and control of the classified service. No rule or amendment thereto shall become effective until it shall have been adopted by ordinance after a public hearing thereon, with notice of such hearing first given by publication of such rule or amendment thereto in full once in the official newspaper of the City at least ten (10) days prior to said hearing and by posting of such rule or amendment thereto in full in three public places at least ten (10) days prior to the said hearing thereon. Following such public hearing the City Council may adopt the rule or amendment as recommended by the Civil Service Commission, may amend the same, or may reject the said recommendation. Any rule or amendment thereto adopted by ordinance shall have the force and effect of law.

Pending the adoption by ordinance of Civil Service rules as hereinabove provided, the present Civil Service rules shall remain in full force and effect for a period not to exceed ninety (90) days from the effective date of this section.

*(Amendment voted 04-22-1941; effective 05-08-1941.)*

*(Amendment voted 11-08-1949; effective 12-20-1949.)*

**Section 119: Application Register**

*(Repeal voted 09-21-1965; effective 02-10-1966.)*

**Section 120: Limitations and Credits**

No question in any test shall relate to race, or to political or religious opinions, affiliations or service, and no appointment, transfer, layoff, promotion, reduction, suspension or removal shall be affected or influenced by race or such opinions, affiliations or service. In all original examinations the Civil Service Commission shall in addition to all other credits, give a credit of five per cent of the total credits specified for such examinations to all those who have served in the United States Armed Forces during any period of time in which a Federal act of conscription was in effect and who have been honorably discharged from active service, provided that this credit is granted to each applicant only upon the first employment after discharge from service, and is not granted to applicants retired from the service on full pensions. The spouse of any veteran who, while in such service, was physically or mentally incapacitated so as to prevent employment in any remunerative occupation, and also the surviving spouse of any veteran killed or who died while in such service, shall receive a credit of five per cent upon the first employment after such veteran's discharge or death.

*(Amendment voted 11-08-1949; effective 12-20-1949.)*

*(Amendment voted 09-20-1977; effective 11-18-1977.)*

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**Section 121: Eligible Lists**

The list of applicants eligible to appointment as determined by the Rules of the Civil Service shall be known as the register of eligibles and shall be open to public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing as determined by said rules. The name of no person shall remain on the register of eligibles for more than two (2) years without a new application and, if Civil Service Rules so require, a new test.

*(Amendment voted 11-08-1949; effective 12-20-1949.)*

**Section 122: Appointments**

When any position in the Classified Service is to be filled, the appointing authority shall notify the Personnel Director, who shall promptly certify to such authority the names and addresses of the eligibles on the list for the class or grade to which the position belongs. The number of eligibles certified shall be determined by the Civil Service Commission and published in its Rules. The appointing authority shall appoint to such position one of the persons whose names are so certified. When no eligible list for the position exists, or when the eligible list has become exhausted, and until a new list can be created, a name may be certified from the eligible list most nearly appropriate to the position to be filled.

*(Amendment voted 09-21-1965; effective 02-10-1966.)*

**Section 123: Limitations on Appointments and Transfers**

No person shall be appointed or employed in the classified service of the City under any title not appropriate to the duties to be performed, and no person shall be transferred to, or be assigned to perform any duties of, a position subject to competitive test except with the approval of the Personnel Director.

**Section 124: Promotions**

Whenever practicable vacancies in the classified service shall be filled by promotion, and the Civil Service rules shall indicate the lines of promotion, from each lower to higher grade wherever experience derived in the lower grade tends to qualify for the higher. Any advancement in rank shall constitute promotion. Lists from which promotions are to be made shall be created as provided in the Civil Service rules and the appointment of eligibles therefrom shall be made in the same manner as the original appointments, except as otherwise provided for in this Charter.

**Section 125: Service Register**

There shall be prepared by the Personnel Director and maintained in the office of the Civil Service Commission a list of all persons in the service of the City showing in

connection with each name the position held, the salary or wages paid, the date and character of selection or appointment, every subsequent change of status, and whether in the classified or unclassified service. Such list shall be known as the Service Register, and every appointing officer or authority shall promptly transmit to the Civil Service Commission all information requested for the establishment and maintenance of such register.

In the case of elective officers, such information shall be furnished by the City Clerk.

#### **Section 126: Certification of Pay-rolls**

The Treasurer shall not pay, nor shall the Auditor and Comptroller issue a warrant for the payment of, any salary or compensation to any person holding, or claiming to hold, a position in the classified or unclassified service unless the payroll or account of such salary or compensation shall bear the certificate of the Personnel Director that the persons named therein have been elected, appointed or employed and are performing service in accordance with the provisions of this Charter and the rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the Auditor and Comptroller shall willfully or negligently approve any payment or issue any warrant in violation of this section he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefore by the City or any taxpayer for the use of the City without making previous request to the City to sue.

#### **Section 127: Standards of Efficiency**

The Personnel Director shall fix standards of efficiency and recommend measures for co-coordinating the work of the various Departments and for increasing individual, group, and departmental efficiency. It shall be the duty of the Personnel Director to fix a minimum standard of conduct and efficiency for each grade in the service, and whenever it shall appear from the reports of efficiency made to the Personnel Director for a period of three months that the conduct and efficiency of any officer or employee has fallen below such minimum that fact shall be reported to the authority responsible for the appointment of such officer or employee.

#### **Section 128: Investigations**

The City Council, the Civil Service Commission, the City Manager, the Personnel Director or any persons designated by any of them, may make investigations concerning the facts in respect to the operation and enforcement of the Civil Service provisions of this Charter and of the rules established thereunder, and concerning the condition of the

Civil Service of the City or any branch thereof. Written charges of misconduct or inefficiency against any officer or employee in the classified service may be filed with the Personnel Director by any person. The Commission shall investigate any such charges, or cause them to be investigated, and report the findings of the investigation to the authority responsible for the appointment of the officer or employee against whom the charges have been made. Any person or persons, making an investigation authorized or required by this Section, shall have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses. Provided, however, that in the event of more than one investigation concerning the same person or the same subject matter or matters closely allied thereto, then and in that event but one hearing shall be had and the entire matter shall be disposed of in the one hearing.

#### **Section 129: Removals, Suspension and Layoffs**

Upon attaining permanent status pursuant to the Rules of the Civil Service Commission, any officer or employee of the City in the classified service may be removed from office or employment for cause by the appointing authority. Written notice of removal given to any officer or employee, or written notice left at or mailed to his or her usual place of residence, shall be sufficient to put any such removal into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefore and the right to be heard before the Civil Service Commission. Upon such demand the appointing authority ordering the removal shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefore, and the Commission shall fix a time and place for a public hearing. Following the public hearing, and such investigation as the Civil Service Commission may see fit to make, the Commission shall report its findings and recommendations to the authority responsible for the removal as specified in the notice. Thereupon the authority making the removal shall make such final disposition of the matter as may be determined by the Civil Service Commission. The decision of the Civil Service Commission in any such case shall be final. A copy of the written statement of reasons given for any removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the Civil Service Commission shall be filed as a public record in the office of the Civil Service Commission. Prior to attaining permanent status, any officer or employee in the classified service may be removed under those conditions and in the manner specified by the Civil Service Commission.

Any officer or employee of the City in the classified service may be suspended from office or employment for cause or for investigation of misconduct by the appointing authority. Written notice of suspension given to any officer or employee, or written notice left at or mailed to his or her place of residence, shall be sufficient to put any such suspension into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefore and a right to appeal said suspension

for cause. Upon such demand the officer making the suspension shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefore. The appellant shall be accorded all rights and privileges pursuant to law. The Civil Service Commission shall by rules or regulations, establish procedures for conducting hearings and/or investigations, and reporting findings and recommendations to the appointing authority. All findings and recommendations in any such case shall be final.

The Civil Service Commission shall promulgate rules and regulations necessary to govern layoffs for lack of funds, lack of work, or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in any office or department of the City of San Diego.

*(Amendment voted 11-04-1975; effective 12-01-1975.)*

*(Amendment voted 06-08-1976; effective 07-22-1976.)*

*(Amendment voted 06-03-1980; effective 07-16-1980.)*

### **Section 129.1: Removal of Striking Employees**

No employee of The City of San Diego employed under the civil service provisions of this Charter shall instigate, participate in, afford leadership to a strike against The City of San Diego, or engage in any form of concerted action to withhold service from said City. In the event of any such strike or concerted action against the City, it shall be the duty of the City Manager or other appointing authority to ascertain the identity of any employee of the City under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against such employee in accordance with the applicable provisions of the Charter. Any citizen of the City may file written charges against an employee in violation of the provisions of this section. The appropriate appointing authority shall, upon receipt of such written charges, investigate without delay any such written charge, and forthwith inform said citizen of the findings and action, or proposed action, to be taken thereon.

Appointing authorities shall cause timely hearings to be held for any employees charged hereunder. If the City Manager or other appointing authority, after a hearing, determines that the charges are supported by the evidence submitted, and that the employee willfully engaged in the strike or action, said appointing authority shall dismiss the employee involved, and said person shall not be reinstated or returned to The City of San Diego employment except as a new employee who is employed in accordance with the regular employment practices of the City in effect at that time for the particular position of employment.

No officer, board or commissioner of the City elected or appointed, shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.



Every employee of The City of San Diego employed under the civil service provisions of this Charter on the effective date of this section, and each person employed pursuant to the civil service provisions of this Charter on or after the effective date of this section, shall be furnished a copy and apprised of the provisions of this section and shall make under oath and file in the office of the Civil Service Commission the following declaration:

“I hereby acknowledge receipt of a copy of the provisions of Section 129.1 of the Charter of The City of San Diego and hereby declare that during the term of my employment with said City I shall neither instigate, participate in or afford leadership to a strike against said City or engage in any concerted action to withhold my services from the city.”

In the event of any strike or concerted action to withhold service from The City of San Diego by an employee organization, or employees represented thereby, the City Council is hereby prohibited from granting any improvement in wages, hours or working conditions beyond those in effect or last offered to the striking organization or employees represented thereby by the City prior to the commencement of such strike or concerted activity, and is prohibited from considering the granting of any such improvement beyond that which may have been last offered by the City prior to the strike or concerted activity until the commencement of meet and confer negotiations in the next subsequent calendar year at the time regularly scheduled for commencement under adopted City Council policy governing such negotiations.

Notwithstanding any other provision of this Charter, a dismissal imposed pursuant to this section shall not be appeal able to the Civil Service Commission.  
(Addition voted 06-08-1976; effective 07-22-1976.)

### **Section 130: Compensation Established**

The Council shall by ordinance, prior to the beginning of each fiscal year, establish a schedule of compensation for officers and employees in the Classified Service, which shall establish a minimum and maximum for any grade and provide uniform compensation for like service. It shall be the duty of the Civil Service Commission to prepare and furnish to the Council, prior to the adoption of said ordinance, a report identifying classifications of employees in the Classified Service which merit special salary consideration because of recruitment or retention problems, changes in duties or responsibilities, or other special factors the Commission deems appropriate. An increase in compensation, within the limits provided for any grade, may be granted at any time by the City Manager or other appointing authority upon the basis of efficiency and seniority record, after having first received the approval of the Civil Service Commission therefore.

(Amendment voted 04-22-1941; effective 05-08-1941.)

(Amendment voted 11-08-1977; effective 01-20-1978.)

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**Section 131: False Statement by Applicant**

Any applicant for any office or employment in the classified service who shall knowingly make any false statement deemed material to eligibility for the position sought in connection with any test shall thereby forfeit his right to be entered upon the eligible register, and in case he has been appointed to an office or employment he shall forfeit it and may not be entitled for a period up to three years thereafter, within the discretion of and until notified by the Civil Service Commission, to take any Civil Service test or be eligible for appointment to any office or employment in the service of the City.

*(Amendment voted 09-20-1977; effective 11-18-1977.)*

**Section 132: Gifts or Payments by Applicants Forbidden**

No applicant for Civil Service test or for appointment to the classified service shall either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other valuable thing to any person for or on account of, or in connection with, his test, appointment, or proposed appointment, nor shall he ask for or receive any recommendation or assistance from any person in the service of the City other than a statement regarding any previous service to the City as a subordinate under such officer or employee.

**Section 133: Fraud on Civil Service Provisions**

No person shall willfully or corruptly make any false statement, certificate, mark, grading or report in regard to any test or any appointment held or made under the Civil Service provisions of this Charter, or in any manner commit or attempt to commit any fraud in connection with such provisions or said Civil Service rules.

**Section 134: Political Influence Prohibited**

No person shall use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the City as a reward or return for personal or partisan political service.

*(Amendment voted 11-06-1979; effective 12-17-1979.)*

**Section 135: Certain Political Practices Forbidden**

No person about to be appointed to any position in the service of the City shall sign or execute a resignation, dated or undated, in advance of such appointment. No person in the service of the City shall discharge, suspend, lay-off, reduce in grade or in any manner change the official rank or compensation of any person in such service, or promise or threaten to do so, for withholding or neglecting to make any contribution of money or service or any valuable thing for any political purpose. No person in the administrative service of the City shall use his official authority to influence or coerce the political

action of any person or body, or to interfere with any nomination or election to public office.

### **Section 136: Violations and Penalties**

It shall be the duty of the Personnel Director to supervise the execution of the foregoing Civil Service provisions of this Charter and of the rules made thereunder, and it shall be the duty of all persons in the service of the City to comply with such rules and to aid in their enforcement. Any person who, by himself or with others, willfully or corruptly deceives or obstructs any person in respect to his right to take part in any test for admission to the (un)classified service of the City; or willfully and corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests concerning persons so tested; or furnishes special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested or to be tested, or to be appointed, employed, or promoted; or impersonates any person, or permits or aids in any impersonation in connection with any test, application, registration or appointment, or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test; or willfully or through culpable negligence violates any of the Civil Service provisions of the Charter, or any of the rules made in pursuance thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for a term not exceeding six months. If any such person be an applicant for competitive test he shall be excluded therefrom; if he be an eligible his name shall be removed from the register of eligibles; and if he be an officer or employee of the City he shall immediately forfeit his office or employment.

### **Section 137: Power of Taxpayers to Enforce Rules**

Any taxpayer in the City may maintain an action to recover for the City any sum of money paid in violation of the Civil Service provisions, or to enjoin the Personnel Director from attaching his certificate to a payroll on account for services rendered in violation of this Article or the rules made thereunder; and the rules made under the foregoing provisions shall for this and all other purposes have the force of law.

### **Section 138: Certain Candidates for Elective Office and Appointments Prohibited**

No person holding an elective office of the City shall, during the term for which elected, be appointed to any office or position in the service of the City except as otherwise provided by this Charter.

**Section 139: Further Powers**

The City Council, whenever requested by the Commission, may by ordinance confer upon the Commission such other or further rights, duties and privileges as may be necessary adequately to enforce and carry out the principles of Civil Service not in conflict with this Charter.

**Section 140: Present Employees Retained**

*(Repeal voted 09-21-1965; effective 02-10-1966.)*

**Section 140a: Status of Present Employees**

*(Addition voted 11-08-1949; effective 12-20-1949.)*

*(Repeal voted 09-21-1965; effective 02-10-1966.)*